

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ISAAC NARANJO,

Plaintiff,

v.

M.M. IVICIC, D. J. CLOSE, J. BARROWS,
M.J. PYO, BARRY SMITH,

Defendant.

3:21-CV-00072-CCW

MEMORANDUM ORDER

This case has been referred to United States Magistrate Maureen P. Kelly for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On March 2, 2022, the Magistrate Judge issued a Report, ECF No. 61, recommending that Defendants' Motion to Dismiss, ECF No. 35, be granted in part and denied in part. Service of the Report and Recommendation ("R&R") was made on the parties. The deadline to file objections to the R&R was March 16, 2022; to date, no objections have been filed. On March 21, 2022, Plaintiff filed a Motion, ECF No. 62, representing that he is "not going to file objections to the Magistrate Judge MPK R&R" and requesting that the Court "direct the Defendants to **answer** the plaintiff[s] Amended Complaint ECF No. 28 if they do not file any objections."

After a review of the pleadings and documents in the case, together with the R&R, the Court will adopt the Report and Recommendation as the Opinion of the District Court, and hereby **ORDERS** as follows:

Defendant's Motion to Dismiss is **GRANTED IN PART AND DENIED IN PART**, such that Plaintiff's Eighth and Fourteenth Amendment Claims, along with his claims against

Defendants Barrows and Smith, are DISMISSED WITH PREJUDICE; Defendants' Motion to Dismiss is otherwise DENIED.

IT IS FURTHER ORDERED that Plaintiff may (but is not required to) file a Second Amended Complaint to attempt to plead viable Eighth and Fourteenth Amendment claims, and claims against Defendants Barrows and Smith. Any such amended pleading shall be filed on or before **April 7, 2022**. Alternatively, if Plaintiff instead wishes to proceed on his Amended Complaint, he may so notify the Court.

IT IS FURTHER ORDERED that, because of Plaintiff's pending deadline to file a Second Amended Complaint, Plaintiff's Motion at ECF No. 62 for an order directing Defendants to respond to the Amended Complaint is hereby DENIED as MOOT.

IT IS SO ORDERED.

DATED this 24th day of March, 2022.

BY THE COURT:

/s/ Christy Criswell Wiegand
CHRISTY CRISWELL WIEGAND
United States District Judge

cc: The Honorable Maureen P. Kelly
United States Magistrate Judge

ISAAC NARANJO
FJ 4369

SCI Houtzdale
Box 1000
Houtzdale, PA 16698

All Counsel of Record via CM/ECF